

99 FERC ¶ 61,054
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

Dynegy Power Marketing, Inc.

Docket No. EL01-104-002

v.

Southwest Power Pool, Inc.

ORDER GRANTING CLARIFICATION AND
DISMISSING REHEARING AS MOOT

(Issued April 12, 2002)

1. This case involves questions about a transmission customer's rights to redirect service and how much flexibility that customer should have in doing so. In this order, we grant the requested clarifications and dismiss the request for rehearing, as discussed below. This order benefits customers by clarifying the scope of a transmission customer's right to redirect point-to-point service.

2. Background

3. On September 13, 2001,¹ the Commission granted relief in response to a complaint filed by Dynegy Power Marketing, Inc. (Dynegy),² finding that the Southwest

¹Dynegy Power Marketing, Inc. v. Southwest Power Pool, Inc., 96 FERC ¶ 61,275 (2001) (September 13 Order).

²Dynegy alleged that SPP violated section 22.2 of its OATT by restricting the right of point-to-point transmission service customers to change receipt and delivery points on a firm basis and by requiring that these changes be made for the remainder of the original reservation term. SPP countered that under section 22.2 a "new" service request supersedes the original service, and therefore transmission customers do not have the right to redirect their reservation rights for a term that is less than the remaining term

(continued...)

Power Pool (SPP) violated section 22.2 of its Open Access Transmission Tariff (OATT) by limiting the ability of point-to-point transmission service customers to change receipt and delivery points (redirect) on a firm basis. In the September 13 Order, we required SPP to "permit[] redirections in long-term, point-to-point transmission service for periods less than the remainder of the contract."³

4. On December 21, 2001,⁴ the Commission clarified the September 13 Order, stating that "[w]ith regard to SPP's request for clarification of the term 'pending' in section 22.2, we agree that a redirecting customer under section 22.2 will not lose its rights to its original path by virtue of having submitted a request to redirect service until its request to redirect service is unconditionally accepted."⁵

5. Dynegy and Reliant Energy Power Generation, Inc. (Reliant) request that we clarify the term "unconditionally accepted" in the December 21 Order so that a redirecting customer does not lose its right to its original path simply upon acceptance of the request by the transmission provider. Instead, Dynegy and Reliant state that a redirecting customer should lose its right to its original path at the point when it confirms the accepted redirect request. In the alternative, Dynegy requests rehearing.

6. Discussion

7. We did not intend our use of the term "unconditionally accepted," in the December 21 Order, to imply that a transmission customer will lose its right to its original path upon the transmission provider's acceptance of the redirect request, regardless of whether or not that customer has confirmed its request to redirect to a different path. As Dynegy and Reliant suggest, that could result in a transmission customer losing its rights to its original path simply by virtue of its request to redirect service being accepted by a transmission provider without the transmission customer

²(...continued)
of the underlying service agreement.

³September 13 Order, 96 FERC at 62,047 (stating that "the ability to redirect firm service for a period less than the balance of the term fosters a competitive environment in the bulk power market").

⁴Dynegy Power Marketing, Inc. v. Southwest Power Pool, Inc., 97 FERC ¶ 61,340 (2001) (December 21 Order).

⁵December 21 Order, 97 FERC at 62,593 (emphasis added).

confirming that request. That result would be inconsistent with the Commission's policy: "'Section 22.2 of the pro forma tariff was intended to provide flexibility to transmission customers to permit them to react in a competitive market.'"⁶ Therefore, we grant Dynegy's and Reliant's requested clarification that a transmission customer, under section 22.2 of SPP's OATT, maintains its rights to its original path until the redirect request is confirmed by the transmission customer.

8. We note, in addition, that the transmission customer does not lose its rights to its original path until the redirect request also passes the conditional reservation deadline under section 13.2 of SPP's OATT. Accordingly, we disagree with Reliant's contention that the Commission, in the December 21 Order, did not intend the term "unconditionally accepted" to mean a redirect request that has reached the unconditional reservation stage.

9. In summary, we clarify that a transmission customer does not lose its rights to its original path until the redirect request satisfies all of the following criteria: (1) it is accepted by the transmission provider; (2) it is confirmed by the transmission customer; and (3) it passes the conditional reservation deadline under section 13.2. Because we are granting the clarification, Dynegy's alternative request for rehearing is moot.

The Commission orders:

(A) The requests for clarification are hereby provided, as discussed in the body of this order.

(B) The request for rehearing is hereby dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Deputy Secretary.

⁶September 13 Order, 96 FERC at 62,047 (quoting Commonwealth Edison Company, 95 FERC ¶ 61,027 at 61,083 (2001)).

